

Docket No: FILLIP  
Appl. No: 09/977,451

## REMARKS

This Amendment is submitted preliminary to the issuance of an Office Action in the present application and in response to the Official Action of May 3, 2004.

Record is also made of two telephone interviews between applicant's representative and the Examiner which took place on September 1 and September 7, 2004. The Examiner is thanked for his help and assistance as well as for the courtesies extended to Counsel at that time. During the course of the interviews, the present application was extensively discussed in light of the final rejection of claims 1-7 and 19-22 and the indicated allowability of claims 6, 7 and 21. More specifically, applicant's representative suggested amending claims 1 and 19 to clearly set forth that the dowel of the present invention is formed substantially continuously with a cylindrical internal thread, including the internal cylindrical expansion zone. With this preliminary amendment, applicant has made these amendments to claims 1 and 19 of record.

Both Fischer and Pleister show anchors that have an internal thread with cylindrical and conical portions. Thus, it is applicant's belief that a person skilled in the art, would not make the combination, as suggested by the Examiner because the mere fact that Pleister may show a cylindrical expansion zone does not lead the artisan to substitute the conical expansion zone in Fischer in this way, if both, Fischer and Pleister, never conceived to the provision of an internal thread that is substantially cylindrical throughout. The fact that individual elements of the present

Docket No: FILLIP  
Appl. No: 09/977,451

invention can be found in the prior art is not determinative as to the question of obviousness. As stated by the Federal Circuit in *In re Rouffet*, 47 USPQ2d, 1453, 1457 "Most, if not all, inventions are combinations and mostly of old element. Therefore, an examiner may often find every element of a claimed invention in the prior art. If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be an illogical and inappropriate process by which to determine patentability."

Thus, there must be some motivation to combine the references to create the case of obviousness, and a showing that a skilled artisan, confronted with the problems as the inventor, would select the elements from the cited prior art references.

It is applicant's contention, that the Examiner failed to make a prima facie case of obviousness and failed to explain the motivation one with no knowledge of applicant's invention would have to combine the references in a manner suggested.

Applicant further submits herewith new claims 23 to 25 which set forth further features of the present invention. The Commissioner is hereby authorized to charge the amount of \$27.00 to cover the surcharge for presenting three more claims in excess of twenty to Deposit Account No. 06-0502.

Docket No: FILLIP  
Appl. No: 09/977,451

More specifically, claims 23 and 24 recite a dimensional relationship between the length of the spreader screw and the length of the expansion zone, whereas claim 25 recites the provision of a fastening screw. The provision of a fastening screw is also set forth in claim 19. While the Examiner remained non-committal to the amendments to claims 1 and 19, and appeared to lean toward maintaining the rejection, he also indicated that he may look favorably to the subject matter, set forth in claims 23-25.

Applicant also addressed the rejection of claims 1-7 and 19-22 pursuant to 35 U.S.C. §112, first paragraph, by referring to the provision of the axial slots (3) that allow the insertion of the screw (7) and effect the expansion. In addition, applicant's representative pointed out that the transition between the internal thread portion (5) and the internal expansion zone (6) is not abrupt but rather is slightly chamfered, as typical for any internal thread. It is noted, however, that the bevel of the spreader screw (7) by itself is, in fact, sufficient to allow the screw to enter the slotted expansion zone and to realize the intended expansion.

In view of the above, each of the presently pending claims in this application is considered patentably differentiated over the prior art of record and believed to be in immediate conditions for allowance. Reconsideration and allowance of the present application are thus respectfully requested.

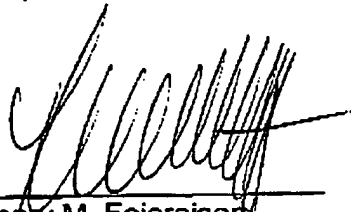
Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully requested that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. If the Examiner feels

Docket No: FILLIP  
Appl. No: 08/977,451

that it might be helpful in advancing this case by calling the undersigned, applicant would greatly appreciate such a telephone interview.

Respectfully submitted,

By:

  
Henry M. Feiereisen  
Agent for Applicant  
Reg. No. 31,084

Date: October 4, 2004  
350 Fifth Avenue  
Suite 4714  
New York, N.Y. 10118  
(212) 244-5500  
HMF:af